

## **REMARKS**

### **I. Overview**

Claims 1-16 have been canceled and new claims 17-36 have been added to the present application.

The issues raised by the Examiner in the Final Office Action dated March 31, 2008 are as follows:

- Claims 1, 11-15 and 16 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent Publication No. 2001/0015732 to Ehrhardt, et al. (hereinafter “Ehrhart”) in view of U.S. Patent Publication No. 2003/0036873 to Sierer, et al. (hereinafter “Sierer”);
- Claims 2, 3 and 6 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Ehrhardt as modified by Sierer and further in view of U.S. Patent Publication No. 2003/0163519 to Kegel, et al. (hereinafter “Kegel”);
- Claim 4 has been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Ehrhardt as modified by Sierer and in further view of U.S. Patent No. 6,931,546 to Kouznetsov, et al. (hereinafter “Kouznetsov”);
- Claim 5 has been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Ehrhardt as modified by Sierer and in further view of U.S. Patent Publication No. 2003/0037326 to Burkhardt, et al. (hereinafter “Burkhardt”);
- Claim 7 has been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Ehrhardt as modified by Sierer and in further view of U.S. Patent No. 6,151,567 to Ames, et al. (hereinafter “Ames”);
- Claims 8 and 9 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Ehrhardt as modified by Sierer and in further view of U.S. Patent Publication No. 2002/0103937 to Tillman, et al. (hereinafter “Tillman”); and
- Claim 10 has been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Ehrhardt as modified by Sierer and in further view of U.S. Patent No. 6,523,027 to Underwood (hereinafter “Underwood”).

Applicant respectfully traverses the outstanding claim rejections and requests reconsideration and withdrawal in light of the amendments and remarks presented herein.

### **II. Claim Rejection – 35 U.S.C. § 103**

The present invention provides a system and method for allowing new functionalities to be used in a protocol tester, in addition to functionalities provided by the original manufacturer,

without requiring a renewed compilation and linking of the DLLs involved. The additional functionalities may be created by the user or a specialist, such as by the manufacturer. The additional functionalities, and the manufacturer's original functionalities, are represented by graphic symbols that are used to set up communication procedures. The additional functionalities are selected in the same manner as the manufacturer's original functionalities using the graphic symbols.

Sierer discloses a system and method for online configuration of a measurement system (Abstract). Sierer teaches a self-executing program file that operates to configure a client computer and measurement devices. ([0031]). There is no teaching or suggestion in Sierer that the self-executing program includes the addition or creation of new functionality that may be selected as required in the pending claims. Moreover, there is no teaching or suggestion that Sierer's self-executing program provides a graphic symbol correlated to the new function. Instead, Sierer's self-executing program merely configures the existing measurement equipment.

Sierer further teaches a measurement task wizard that leads a user through a measurement task specification process. ([0167]). There is no teaching or suggestion in Sierer that the measurement task wizard allows for the addition of new functionality as required in the pending claims. Moreover, there is no teaching or suggestion that Sierer's measurement task wizard provides a graphic symbol correlated to the new function. Instead, the measurement task wizard merely configures the existing measurement equipment.

The Examiner's rejection cited both the self-executing program and the measurement wizard. Accordingly, it appears that the Examiner is suggesting combining both of those features to reject the previous claims. Applicant respectfully submits that there is also no teaching or suggestion in Sierer to combine the self-executing program with the measurement task wizard. These programs essentially perform the same configuration operation and, if one is present, then there is no reason to use the other. Accordingly, there is no reason to combine features of the self-executing program and the measurement wizard as provided in the previous rejection.

Sierer also discloses a method for creating a program file, such as a hardware configuration program, to perform a user-selected task. ([0226]). In the Sierer disclosure, a

description file identifying task resources and features is generated; a graphical code, such as G code, is generated from the description file; HDL code is generated from the graphical code; and a program binary code is finally generated from the HDL code. (*Id.*) Sierer does not teach that the program binary code includes new functionality as required in the pending claims. In particular, Sierer fails to teach or suggest adding new functionality that can be selected using a graphic symbol, wherein the new function was not present in the original version of the device.

Furthermore, although a graphical code is used in one step of Sierer's process for generating the program binary code, there is no teaching or suggestion that the graphic code or a display form is correlated to a new or additional functionality. Moreover, the graphical code is simply used in a series of steps that are used during the creation of the program file. The graphical code is not linked to a new function.

Accordingly, even if Sierer's various measurement task configuration programs and wizards were combined, they would not provide a system or method for adding additional functionality. Moreover, the proposed combination of Sierer's measurement configuration programs and wizards does not teach or suggest the use of a display form that is correlated to the additional functionality.

In view of the above, Applicant respectfully submits that the application is in condition for allowance and request that the Examiner pass the case to issuance. If the Examiner should have any questions, Applicant requests that the Examiner please contact Applicant's attorney at the address below. In the event that the enclosed fees are insufficient, please charge any additional fees required to keep this application pending, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

September 29, 2008

Date

/Michael J. Fogarty, III/

Michael J. Fogarty, III  
Attorney for Applicant  
Reg. No. 42,541

SLATER & MATSIL, L.L.P.  
17950 Preston Rd., Suite 1000  
Dallas, Texas 75252  
Tel.: 972-732-1001  
Fax: 972-732-9218